

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Biennial Regulatory Review -- Amendment)
of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90,)
95, 97, and 101 of the Commission's Rules)
to Facilitate the Development and Use of the)
Universal Licensing System in the Wireless)
Telecommunications Services)

WT Docket No.
98-20

COMMENTS OF TELIGENT, INC.

Teligent, Inc. ("Teligent"), by its attorneys, submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") released March 18, 1998 in the above-referenced docket.¹ As discussed below, Teligent proposes that the Commission modify Section 101.5(b) of the Commission's Rules, 47 C.F.R. § 101.5(b), to eliminate the requirement that Digital Electronic Message Service ("DEMS") licensees file a separate application for each new DEMS nodal station they seek to add to their systems.

Teligent, through its subsidiaries, holds licenses to construct and operate DEMS systems in the 24.25 - 24.45 GHz frequency band and provides point-to-point and point-to-multipoint wireless telecommunication services.

¹ In re Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Notice of Proposed Rulemaking, WT Dkt. No. 98-20 (released March 18, 1998) (hereinafter "NPRM").

In the NPRM, the Commission proposed to streamline its rules governing application procedures for radio services licensed by the Wireless Telecommunications Bureau to facilitate the implementation of its new electronic licensing database. The Commission proposed to revise its rules to collect from wireless radio service applicants and licensees only the data necessary for it to fulfill its spectrum management and compliance responsibilities. Accordingly, the Commission sought comment on whether it should delete any particular data collection requirements.

In paragraph 77 of the NPRM, the Commission stated that, with certain exceptions, "the collection of technical data for each site may not be appropriate under geographic area licensing."² Indeed, the collection and reporting of technical data for individual nodal stations within a DEMS licensee's exclusive service area is not necessary. DEMS licenses are issued on a wide-area basis by Standard Metropolitan Statistical Areas ("SMSAs") and DEMS licensees have the exclusive right to use their licensed frequency in their licensed SMSA. Yet DEMS licensees remain subject to the requirement in Section 101.5(b) to file a separate application for each new nodal station they seek to add within their licensed SMSA.

The Commission has not imposed such a site-specific filing requirement on other fixed wireless services, such as 38 GHz and Local Multipoint Distri-

² The Commission indicated that exceptions could include sites whose construction and operation posed potential environmental, international coordination, and FAA clearance issues.

bution Services ("LMDS"), that also are licensed on a wide-area basis.³ These other licensees also have the exclusive right to use the frequency in their licensed service areas and are required to coordinate their frequency usage with co-channel and certain adjacent channel licensees. These licensees are similarly situated and therefore should be treated in a consistent manner.⁴

The Commission expressly stated that a reduced filing burden is in the public interest.⁵ Eliminating filing requirements for each new DEMS nodal station will serve the public interest because it will enable DEMS licensees to develop and expand their DEMS systems in a timely and competitively neutral manner without extensive application processing delays. In addition, eliminating the filing requirement would reduce unnecessary and burdensome processing of individual applications by the Commission staff.⁶

³ See 47 C.F.R. §§ 101.147(v) and 101.1009.

⁴ See NPRM at ¶ 10 (noting that one of the purposes of this rulemaking is to "conform application and filing rules for all wireless radio services so that similarly situated applicants and licensees are treated equally").

⁵ See NPRM at ¶ 79.

⁶ The Commission has often waived Section 101.5(b) to allow DEMS licensees to construct multiple nodal stations within a 25-mile radius of specified coordinates within a licensed SMSA without obtaining prior approval for each individual facility. Pursuant to such a waiver, however, licensees must generally file with the Commission a completed FCC Form 415 for each nodal station post-construction. Moreover, such waivers were limited to a 25-mile radius, thereby obligating licensees who added nodal stations within the additional territory in their licensed SMSA outside of the 25-mile radius to file separate applications, and await prior approval, for each station. In any event, filing applications to obtain such waivers wastes valuable resources of the

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Accordingly, for the reasons discussed above, Teligent proposes that the Commission modify Section 101.5(b) to read as follows:⁷

- (b) A Digital Electronic Message Service licensee may construct and operate Digital Electronic Message Service Nodal Stations and/or User Stations within the area authorized by the license without prior authorization.

Respectfully submitted,

Teligent, Inc.

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⁶ (...continued)
Commission and licensees. Even the post-construction notification wastes valuable Commission and licensee resources and is unnecessary given the geographic scope of DEMS licenses.

⁷ Similarly, the Commission should also eliminate the corresponding requirement in Sections 101.5(b) and 101.503 that a DEMS licensee apply for authority to serve a specific number of user stations for each separately licensed nodal station.